

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH EUGENE PIOVO,
 Individually and as Beneficiary of the Vice Roy
 United Nations Credit and Commerce
 International Blind Trust,

Plaintiff,

v.

ROBERT STONE; ANTONIETA TOVAR-
 GUZMAN; MERSCORP, INC.; CBSK
 FINANCIAL GROUP, INC.; U.S. BANK
 NATIONAL ASSOCIATION, AS TRUSTEE,
 SUCCESSOR IN INTEREST TO BANK OF
 AMERICA, NATIONAL ASSOCIATION AS
 SUCCESSOR BY MERGER TO LASALLE
 BANK NATIONAL ASSOCIATION AS
 TRUSTEE FOR CERTIFICATE HOLDERS OF
 BEAR STERNS ASSET BACKED SECURITIES
 I, LLC ASSET BACKED CERTIFICATES,
 SERIES 2006-HE8; AND ALL PERSONS
 CLAIMING BY, THROUGH OR UNDER SUCH
 PERSONS UNKNOWN CLAIMING ANY
 LEGAL OR EQUITABLE TITLE, ESTATE,
 LIEN OR INTEREST IN THE PROPERTY
 DESCRIBED IN THE COMPLAINT ADVERSE
 TO PLAINTIFF TITLE THERETO; Does 1-100,
 inclusive,

Defendants.

Case No. 2:13-cv-01922-APG-GWF

ORDER:

**(1) GRANTING MOTION TO STRIKE
 AMENDED COMPLAINT AND
 RELATED JOINDERS (Dkts. 65, 66 and
 68);**

**(2) GRANTING MOTIONS TO VACATE
 DEFAULT AND TO DISMISS (Dkts. 23
 and 30);**

**(3) GRANTING MOTIONS TO DISMISS
 (Dkts. 5 and 10);**

**(4) DENYING MOTION TO STRIKE
 AND OBJECTION TO MAGISTRATE'S
 REPORT AND RECOMMENDATION
 (Dkts. 34 and 62); AND,**

**(5) ALLOWING PLAINTIFF TO FILE
 AN AMENDED COMPLAINT**

This matter comes before the Court on the following motions/issues pending before the
 Court:

- (1) Merscorp Holdings, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction
 and For Failure to State a Claim upon Which Relief Can Be Granted Pursuant to Fed.
 R. Civ. P. Rule 12(b)(6) (Docket 5);

- 1 (2) Motion to Dismiss for Lack of Subject Matter Jurisdiction (Docket 10), filed by U.S.
2 Bank, N.A., as trustee;
- 3 (3) Motion to Vacate Default and Motion to Dismiss (Docket 23) filed by Antonieta
4 Tovar-Guzman;
- 5 (4) Motion to Vacate Default and Motion to Dismiss (Docket 30), filed by Antonieta
6 Tovar-Guzman;
- 7 (5) Plaintiff's Motion to Strike and/or Exclude from Consideration all Exhibits filed by
8 Defendant Merscorp, Inc./Merscorp Holdings, Inc. Under Doc 5 and Doc 6 and
9 Motion for Sanctions (Docket 34), filed by Joseph Eugene Piovo;
- 10 (6) Notice of Objection to Magistrate's Order dated 3/18/14 - Staying Discovery and
11 Objection to Magistrate Judge Presiding Over the Instant Case (Docket 62), filed by
12 Joseph Eugene Piovo;
- 13 (7) Motion to Strike Amended Complaint Filed Without Leave of Court (Docket 65),
14 filed by U.S. Bank, N.A., as trustee;
- 15 (8) Merscorp Holdings, Inc.'s Joinder in Motion to Strike Amended Complaint Filed
16 Without Leave of Court (Docket 65) (Docket 66), filed by Merscorp Holdings, Inc.;
17 and,
18
- 19 (9) Defendant Tovar-Guzman's Joinder to Motion to Strike Amended Complaint filed
20 Without Leave of Court (Docket 65) (Docket 68), filed by Antonieta Tovar-Guzman.

21 The following parties were present at the April 10, 2014 hearing set by the Court regarding
22 the above-referenced motions/issues: Plaintiff Joseph Eugene Piovo appeared in proper person;
23 Defendant MERSCORP Holdings, Inc., appeared by and through its counsel of record, Kent. F.
24 Larsen, Esq., of the law firm of Smith Larsen & Wixom; Defendant U.S. Bank, N.A., as trustee,
25 appeared by and through its counsel of record, David R. Hall, Esq. of the law firm of Parsons Behle
26 & Latimer; and, Defendant Antonieta Tovar-Guzman appeared by and through her counsel of record
27 Shauna S. Brennan, Esq., of the Brennan Legal Counsel Group, PLLC.
28

1 After reviewing the pleadings and briefs on file in this case related to the motions/issues
 2 referenced above, and after hearing the arguments of Plaintiff, Ms. Brennan, Mr. Hall and Mr.
 3 Larsen at the April 10, 2014 hearing, and good cause appearing therefor,

4 **IT IS HEREBY ORDERED. ADJUDGED AND DECREED** as follows:

- 5 A. the Motion to Strike Amended Complaint Filed Without Leave of Court (Docket
 6 65), Merscorp Holdings, Inc.'s Joinder (Docket 66) and Antonieta Tovar-Guzman's
 7 Joinder (Docket 68) are granted, and the Clerk of the Court is ordered and directed
 8 to strike from the docket of this case the document entitled "Amended Complaint"
 9 (Docket 60), filed by Plaintiff on March 28, 2014;
- 10 B. Antonieta Tovar-Guzman's Motion to Vacate Default and Motion to Dismiss
 11 (Dockets 23 and 30) are granted;
- 12 C. Merscorp Holdings, Inc.'s Motion to Dismiss for Lack of Subject Matter Jurisdiction
 13 and For Failure to State a Claim upon Which Relief Can Be Granted Pursuant to Fed.
 14 R. Civ. P. Rule 12(b)(6) (Docket 5) and the Motion to Dismiss for Lack of Subject
 15 Matter Jurisdiction (Docket 10), filed by U.S. Bank, N.A., as trustee, are hereby
 16 granted;
- 17 D. Plaintiff's Motion to Strike and/or Exclude from Consideration all Exhibits filed by
 18 Defendant Merscorp, Inc./Merscorp Holdings, Inc. Under Doc 5 and Doc 6 and
 19 Motion for Sanctions (Docket 34), filed by Joseph Eugene Piovo, and the Notice of
 20 Objection to Magistrate's Order dated 3/18/14 - Staying Discovery and Objection to
 21 Magistrate Judge Presiding Over the Instant Case (Docket 62), filed by Joseph
 22 Eugene Piovo are hereby denied;

23
 24 **IT IS FURTHER ORDERED. ADJUDGED AND DECREED** that the Magistrate's
 25 decision to stay discovery in this matter (Docket 59) is affirmed, and the discovery stay shall remain
 26 in place pending further order of this Court;

1 **IT IS FURTHER ORDERED. ADJUDGED AND DECREED** that Plaintiff may file an
2 amended complaint, which must be filed no later than Tuesday, May 27, 2014, or this Court will
3 issue an order to the Clerk of the Court directing that this matter be closed.

4
5 Dated: May 5, 2014.

6
7 

8 _____
9 ANDREW P. GORDON
10 UNITED STATES DISTRICT JUDGE
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28